IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1305 of 2007

MOHAN RAM & ANR.
V/S
CIVIL JUDGE(J.D.)& J.M.,DEEDWANA & ORS.

Mr. GR PUNIA, for the appellant / petitioner

Mr. RAJENDRA CHARAN, Mr. MK GARG & Mr. NIRANJAN SINGH, Mr. RAJESH CHARAN for Mr. DS RAJVI, for the respondent

Date of Order : 11.9.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The matter comes up for admission. However, at the request of the learned counsel for the parties, the matter is finally heard.

By the impugned order Annexure 5 and 6 the learned trial court has dismissed the petitioner's application for being impleaded as party in the suit as well as in the temporary injunction application.

The controversy arises in the circumstances that according to the petitioner they donated certain amount of land for construction of school, and the department started raising construction of school on that land. When the construction was afoot, suit has been filed by the plaintiff contending interalia that the school should not be constructed at that place but should be constructed on the land donated by the plaintiff. In this suit the learned

trial court had stayed the construction work.

It is in these circumstances that the petitioner filed application for being impleaded as party. The learned trial court had dismissed the application mainly on the ground, that may be the applicants are interested persons but merely on that ground they cannot be impleaded as parties, as if that is done all villagers of the village would come forward to be impleaded as party.

In my view, the approach of the learned trial court is basically wrong inasmuch as the petitioners have not come to be impleaded as party as villagers but they came on the basis that the school is being constructed on the land donated by them which is sought to be shifted.

In view of the above, in my view, the petitioners ought to have been impleaded as party.

Accordingly, the writ petition is allowed. The impugned orders are set aside, and the petitioners are ordered to be impleaded as party defendant in the suit as well as in the temporary injunction application. The learned trial court is also directed to decide the matter expeditiously.

(N P GUPTA),J.

/sushil/